IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 491 of 1996
To
SPECIAL CIVIL APPLICATION No. 493 of 1996
With
SPECIAL CIVIL APPLICATION No. 552 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAKASHKUMAR PRAHLADBHAI PATEL - Petitioner(s)
Versus
DISTRICT PRIMARTY EDUCATION OFFICER - Respondent(s)

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Appearance :
MR KB PUJARA for Petitioner(s) : 1,
MR DA BAMBHANIA for Respondent(s) : 1,
MR AD OZA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/04/2007

ORAL JUDGMENT

As common question of law and facts arise in this group of petitions, they are being disposed of by this common judgment and order.

2. In all these petitions, the grievance which is made is that in spite of the fact that they were having the requisite qualification for Tailoring – W.C.G.M. Examination, which they have acquired prior to their interview, they are not called for the interview for the post of Primary Teacher and other candidates were appointed. The controversy which was raised in this group of petitions was whether any qualification acquired after the date of advertisement and the prescribed date for submitting the application before the date of interview are required to be considered or not. By common order dated 13-3-1996, the learned single Judge of this Court (Coram: S.K. Keshote, J, as he then was) referred the following question for consideration of Full Bench.

> "In view of the provisions as contained in Rules 5 and 6 of the Rules 1970, the advertisement inviting applications for recruitment made in

this case and the fact that no other date indicated in the advertisement with reference to the requisite qualifications for recruitment should be judged, which should be the relevant date, the last date of receipt of application or the date of selection in the present case with reference to which the requisite qualification for recruitment to the post of Primary Teacher should be judged."

3. Consequently, the Full Bench answered the aforesaid question and the said order is reported in 2000(3) GLH 676 and in para 7, the Full Bench answered the question as under:

"In view of the above question referred to this Full Bench having already been decided by the Hon'ble Supreme Court in the two cases referred in the order of reference itself, namely, Rekha Chaturvedi v. University of Rajasthan reported in 1993 Supp. (3) SCC 168; U.P. Public Service Commission, Allahabad v. Alpana reported in (1994)2 SCC 723, and also in the review order in Ashok Kumar Sharma v. Chander Shekhar reported in (1997) 4 SCC 18, the reference is redundant since the matter is fully covered by the above decisions of the Supreme Court holding to the effect that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates is required to be judged with reference to that date alone and that a person who acquires the prescribed qualifications subsequent to such prescribed date, cannot be considered at all. The reference stands answered accordingly. The matters shall now be posted before a single Judge for hearing."

4. In view of the above and the question answered

by the Full Bench, the qualification acquired by the respective petitioners after the date of advertisement dated 19-9-1994 and/or 15 days after 19-9-1994 were not required to be considered. Under the circumstances and in view of the decision of the Full Bench reported in 2000(3) GLH 676, all the petitioners are required to be dismissed and are accordingly dismissed. Rule discharged. No costs.

(M.R. SHAH, J.)

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